

Service Date: October 2, 1997

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application of)	UTILITY DIVISION
THE MONTANA POWER COMPANY)	
for Approval of the Electric Market Based)	DOCKET NO. D97.2.29
Rate Schedule MBR-1.)	ORDER NO. 5972b

FINAL ORDER

Appearances

FOR THE MONTANA POWER COMPANY:

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FOR THE LARGE CUSTOMER GROUP:

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FOR THE MONTANA CONSUMER COUNSEL:

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FOR THE PUBLIC SERVICE COMMISSION:

Denise Peterson, Staff Attorney, and Will Rosquist, Staff Economist, 1701 Prospect
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FOR THE COMMISSION:

DAVE FISHER, Chairman
NANCY MCCAFFREE, Vice Chair
BOB ANDERSON, Commissioner
DANNY OBERG, Commissioner
BOB ROWE, Commissioner

BACKGROUND

1. Montana Power Company (MPC) filed a Market Based Rate Filing (MBR) with the Montana Public Service Commission (Commission) on February 21, 1997, requesting approval of a proposed MBR-1 Rate Schedule for eligible transmission level customers with average annual loads greater than 1 MW. Eligible loads are defined as loads for which MPC has not acquired resources or incurred stranded costs, or loads that have competitive alternatives.

2. MPC stated that the MBR is a competitive tool to allow the Company to negotiate to serve eligible loads until the Commission approves a direct market access (DMA) rate in the Company's Electric Restructuring Transition Plan filing (Docket No. D97.7.90). Under the MBR tariff schedule MPC would offer market based rates to eligible loads. The power supply to serve eligible loads would come from market purchases or system surpluses and would not influence supply costs to existing customers. Net revenues from individual contracts negotiated under the MBR tariff schedule would offset stranded cost obligations of other customers.

3. On March 19, 1997 the Commission issued a Notice of Request and Intervention Deadline establishing an expedited procedural schedule and setting April 2, 1997 as the intervention deadline. The Power Procurement Group, Large Customer Group, Department of Environmental Quality, Montana Consumer Counsel, Central Montana Electric Power Cooperative, United States Executive Agencies, Rainbow Energy Marketing and Ranck Oil Company filed petitions to intervene.

4. On May 19, 1997 Ranck Oil Company (ROC) submitted testimony urging the Commission to develop a level playing field for all electricity suppliers in the state of Montana. ROC suggested that MPC already has competitive advantages as an incumbent monopoly provider and that the MBR tariff is an attempt by MPC to insulate its customers from future competition. According to ROC, the MBR tariff would allow MPC to lock up large loads in contracts extending far beyond the July 1, 1998 open access date. Contracts under the MBR tariff would be a barrier to entry and make the market unattractive to potential competitors. ROC stated that the MBR tariff would allow MPC to sell electricity below its costs and control the supply side of the market by engaging in price wars. ROC also suggested that the MBR tariff proposal lacks sufficient verification of load eligibility and that MPC should not use competitive

transition charges to fund promotion and marketing of the supply division during the transition period.

5. No other intervenors submitted testimony. On May 22, 1997 MPC and MCC filed a Stipulation Agreement concerning the MBR tariff. MPC and MCC stipulated to limiting the availability of the MBR tariff to a single new large customer, Express Pipeline Partnership (Express), renaming the MBR tariff schedule the "GS-Express-1" tariff schedule, and terminating this tariff schedule on July 1, 1998. Under the GS-Express-1 tariff schedule, rates for service must cover all MPC's variable costs and provide a contribution to fixed costs. Loads for Express would not be included as a firm resource requirement in MPC's resource planning process.

6. On June 9, 1997 the Commission suspended the scheduled hearing in this case and issued a Notice of Stipulation Presentation, and MPC and MCC presented the Stipulation to the Commission on June 24, 1997. MPC stated that ROC and the other intervenors do not object to the Stipulation. At the Presentation, MPC was directed to provide the Commission late filed exhibits consisting of (1) a copy of its contract with Express and (2) an explanation of the basis for the rates contained in the contract.

7. MPC filed a Motion for Protective Order for Express Pipeline Partnership Contract Information on July 21, 1997. The Commission issued a Protective Order on August 1, 1997. MPC submitted confidential late-filed exhibits on August 22, 1997. Generally, the contract price is indexed to the NYMEX California-Oregon Boarder Delivery Point (COB) electricity futures with a basis adjustment that reflects the average difference between COB and the Mid-Columbia trading point. A location differential adjustment is also incorporated to account for transmission between Mid-Columbia and MPC's system.

COMMISSION DECISION AND FINDINGS

8. MPC's Stipulation Agreement with MCC, including proposed tariff terms and conditions, was presented as a settlement of all issues in this case. None of the other intervenors have objected to, or opposed, the stipulation. The record in support of the Stipulation Agreement consists of the Agreement itself, submitted on May 22, 1997, and the support of MPC and MCC

at the June 24, 1997 Stipulation Presentation.

9. The Commission adopts the MPC-MCC Stipulation Agreement and approves the GS-Express-1 tariff schedule, with the following limitation. The Commission finds that the tariff condition that the contract price exceed variable costs and make a contribution to fixed costs is insufficient. The contract price should exceed the higher of MPC's variable costs or opportunity costs. MPC's opportunity costs are currently higher than its variable costs. Determining that the pricing provisions in the Express Contract do approximate MPC's opportunity costs, rather than its present variable costs, the Commission approves service under the GS-Express-1 tariff schedule. If MPC and Express amend the Contract prior to July 1, 1998 in a way that affects the pricing provisions, MPC must file with the Commission for approval of the new prices.

CONCLUSIONS OF LAW

1. Montana Power Company (MPC) in providing electric service is a public utility under the regulatory jurisdiction of the Montana Public Service Commission (Commission). Section 69-3-101, MCA.

2. The Commission properly exercises jurisdiction over MPC's rates and operations. Sections 69-3-102 and 69-3-301, *et seq.*, MCA.

3. The Commission has provided adequate public notice of all proceedings and an opportunity to be heard to all interested parties in this Docket. Sections 69-3-303 and 69-3-104, MCA and Title 2, Chapter 4, MCA.

4. The rate level approved in this order for the "GS-Express-1" tariff schedule is just, reasonable, and not unjustly discriminatory as a unique market-based rate, negotiated between MPC and Express. Sections 69-3-330 and 69-3-201, MCA.

5. The requirements of § 69-3-301, MCA, are satisfied by filing of the tariff in general terms open to public inspection with the confidential price terms filed under a protective order as provided in this order, limited to the particular facts of this application and not precedential to future filings.

ORDER

THE MONTANA PUBLIC SERVICE COMMISSION HEREBY ORDERS THE FOLLOWING:

1. Montana Power Company (MPC) is authorized to provide electrical service to Express Pipeline Partnership, pursuant to the negotiated pricing terms of the contract between the parties, except that if MPC and Express Pipeline Partnership amend the negotiated pricing terms of the contract filed with the Commission on August 22, 1997 prior to July 1, 1998 MPC shall file with the Commission for approval of the new pricing terms.

2. MPC shall file a proposed Protective Order, governing the confidential pricing terms, and a general tariff subject to open inspection by the public. On approval of the Protective Order, the tariff is deemed filed.

3. The GS-Express-1 tariff will be effective for service rendered on and after October 1, 1997, and will terminate on July 1, 1998.

Done and Dated this 1st day of October, 1997 by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.